IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

Appeal No. 750 of 200l
in
Writ Petition No. 23l2 of 2000

M/s Skylark Coop Housing Society Ltd.. Appellant
vs
State of Mah and others.. respondents
Shri.Y.S.Jahagirdar Sr Counsel i/b D.A.Nalawade for appellant
Shri. R.M.Sawant GP for respondent nos l to 3
Shri.E.P.Bharucha with Ms Rajashree Gadhvi i/b Kashmira Bharucha for respondent nos 4 to 29

with

Appeal Lodging No 557 of 2004
in
Writ Petition No.l663 of 2004

M/s Skylark Coop Hsg Society Ltd.. appellants
vs
Shri.Subhash Aware and others... respondents
Shri.Y.S.Jahagirdar Sr Counsel i/b D.A.Nalawade for appellant
Shri.Ravi Kadam i/b Prajakta Shinde for respondent nos.l to 58
Shri.Sawant GP for State
Shri E.P.Bharucha with Ms Rajashree Gadhvi i/b Kashmira Bharucha for respondent nos.65 to 92 except nos 73,75 and 78

with

Writ Petition No.l663 of 2004

M/s Skylark Coop Hsg Society Ltd.. petitioner
vs
Shri.Subhash Aware and others... respondents
Shri.Y.S.Jahagirdar Sr Counsel i/b D.A.Nalawade for appellant
Shri.Ravi Kadam i/b Prajakta Shinde for respondent nos.l to 58
Shri.Sawant GP for State
Shri E.P.Bharucha with Ms Rajashree Gadhvi i/b Kashmira Bharucha for respondent nos.65 to 92 except nos 73,75 and 78

CORAM: A.P.SHAH & S.J.VAZIFDAR JJ.

Dated l0.3.2005

Per A.P.Shah J.

l. These Appeals and Writ Petition involve common questions of law and fact and can be conveniently disposed of by a common judgement and order. Both Appeals and Writ Petition are preferred by M/s Skylark Cooperative Housing Society Ltd, a cooperative society registered under the Maharashtra Cooperative Societies Act, l960,hereinafter referred to as 'the MCS Act'. The said society is hereinafter referred to as the petitioner society. Appeal No. 750 of 200l is directed against the order of single Judge dismissing writ petition preferred by the petitioner society. The respondents to the Appeal are, firstly, the State of Maharashtra, Collector of Mumbai, and Additional Commissioner for Revenue, Konkan Divisionn who are impleaded as respondent nos.l to 3. Respondent nos. 4 to 29 claim that they have been enrolled as members of the petitioner society. According to the petitioner society, the membership of the society is restricted to the employees of the Air India and, therefore, the respondent nos 4 to 29 are not entitled to become members of the petitioner society. Appeal Lodging No. 557 of 2004 is directed against the order of the learned single

Judge declining to grant interim relief in Writ Petition No.l663 of 2004 but since writ petition itself is being heard, this Appeal is rendered infructuous. Writ Petition No.l663 of 2004 arises out of proceedings under section 9l of the MCS Act and the respondent nos 4 to 29 are impleaded in this petition as respondent nos.65 to 92 except nos. 73,75 and 78. The other respondents to the writ petition are members of the petitioner society. The only question that falls for consideration is whether the respondent nos. 4 to 29 are validly enrolled as members of the petitioner society.

2. This litigation has extremely chequered history. The dispute between the parties originates from the grant of land bearing S.No.l64, Versova Mumbai admeasuring 9l86 sq mtrs to the petitioner society under an agreement dated 28.3.l989 between the State Government and the petitioner society. By this agreement the petitioner society was put in possession of the plot of land on condition to utilise the same for residential purpose only . Condition no. 8 of the said agreement provides that new members should be enrolled with the permission of the Collector. The

petitioner society has been registered under the MCS Act with open membership. It appears that the byelaws of the petitioner society were amended on 30.5.l989 to restrict the membership to the Air India employees. This restriction was particularly introduced as the petitioner society was keen on obtaining a group housing loan from the Air India. Since however, the scheme for group housing was given up, the byelaws were again amended with effect from l9.7.l992 and open membership was restored. The said amendment was approved by the Deputy Registrar with effect from 30.7.l992. Respondent nos. 4 to 29 were enrolled as members of the petitioner society vide resolution passed at the Annual General Meeting dated l9.7.l992. Membership of these respondents was confirmed in the Managing Committee meeting of l3.8.l992. These respondents have made substantial contribution towards the construction totalling to about Rs.49 lacs. By letter dated 2l.l0.l993 the Collector returned to the petitioner society the documents with regard to the respondent nos 4 to 29 on the ground that complaints were filed with the Registrar of the Cooperative Societies regarding mismanagement of the society.

3. On 5.ll.l993 the Collector issued a show cause notice listing out charges against the petitioner society of violation of the provisions of the agreement dated 28.3.l989. The Collector by his order dated 22.6.l994 resumed the land as the petitioner society had violated various clauses of the agreement dated 28.3.l989 and through Tahasildar took possession of the said land of the society on 23.6.l994. The petitioner society alongwith respondent nos. 4 to 29 and one Sea View Shopping Arcade filed appeals before the Additional Commissioner,Revenue, Konkan Division against the order dated 22.6.l994 passed by the Collector. The Additional Commissioner by his order dated 4.2.l995 regularised the membership of the non Air India employees i.e. respondent nos. 4 to 29 and directed the Collector to return the land to the society at the market rate. By this order the Additional Commissioner inter alia held that the membership of these respondents was legal and would have to be upheld. Against the decision of the Additional Commissioner appeals were filed by the petitioner society and Sea View Shopping Arcade before the Revenue Minister. The respondent nos. 4 to 29 also filed appeal to the Revenue Minister challenging the order dated 4.2.l995 and prayed for

release of additional FSI to accommodate them in the petitioner society. The appeal filed by the respondent nos. 4 to 29 was allowed by the then Revenue Minister Shri Vilasrao Deshmukh, who by his order dated l0.3.l995 confirmed the order of the Additional Commissioner with modification that the additional FSI be released to the petitioner society and the membership of the respondent nos 4 to 29 be approved and the said respondents be considered against the additional FSI. There was a change in the Government in l995. The new Revenue Minister Shri Sudhir Joshi decided to suo moto review the order dated l0.3.l995 under section 258 of the Maharashtra Land Revenue Code. The appeals filed by the petitioner society and Sea View Shopping Arcade were also put up for hearing before the Minister. The respondent nos. 4 to 29 filed Writ Petition No. l565 of l995 challenging the decision of the new Minister suo moto reviewing the order of the earlier Minister by raising objection that the new Minister was the President of the trade union of Air India employees viz Air India Cabin Crew Association. This court on 2l.8.l995 dismissed the writ petition in limine, but kept open the contentions of the respondents to raise them before the Minister.

4. The Revenue Minister Shri Sudhir Joshi heard both the appeals on l7.l0.l995 and reviewed the order dated l0.3.l995 of the earlier Revenue Minister. The Revenue Minister vide order dated l6.l2.l995 set aside the order dated l0.3.l995 of the earlier Revenue Minister and order dated 4.2.l995 being the order of the Additional Commissioner on the ground that the land was only meant for the Air India employees and dismissed the appeal of M/s Sea View Shopping Arcade and cancelled benefit of l5% additional FSI granted to the society for commercial purpose. He further directed to return to the petitioner society the land and buildings on payment of a penalty of Rs.2.5 lacs. The respondents nos 4 to 29 filed Writ Petition No.26l of l996 challenging order dated l6.l2.l995 passed by the Revenue Minister Shri Joshi. This Court vide order dated 27.ll.l998 quashed and set aside the order dated l6.l2.l995 passed by the Revenue Minister Shri Joshi on the ground that he was disqualified from hearing the appeals as he continued to be the President of Air India Cabin Crew Association. The order dated l0.3.l995 passed by the earlier Revenue Minister Shri Vilasrao Deshmukh was also quashed and set

aside and a de novo hearing of all the appeals against the order dated 4.2.l995 of the Additional Commissioner was ordered before the Revenue Minister.

5. By a common order dated l7.7.l999 passed by the Minister for State for Revenue Shri.Udayanraje Bhonsale disposed of the appeals challenging the order dated 4.2.l995 passed by the Additional Commissioner. By the said order the Revenue Minister allowed the appeal of the petitioner society and the orders of the Collector and the Additional Commissioner were quashed to the extent that they impose penalty on the petitioner society on return of land. The Revenue Minister dismissed the appeal of the respondent nos 4 to 29 and Sea View Shopping Arcade. The Revenue Minister held that the land given on concession only meant for Air India employees and directed the non Air India persons to collect their monies from the petitioner society. Thereafter the respondent nos 4 to 29 filed review application seeking review of the order dated l7.7.l999 passed by the Revenue Minister Shri Bhonsale under section 258 of the Maharashtra Land Revenue Code. This review application was admitted and the then Chief

Minister Shri Narayan Rane granted stay of the order dated l7.7.l999. The review petition challenging the order dated l7.7.l999 was finally heard by the new Revenue Minister Shri Ram Raje Nimbalkar who passed an order dated 5.l0.2000 by which the order dated l7.7.l999 was quashed and set aside. The appeal filed by the respondent nos 4 to 29 was allowed and it was directed that membership of the society should not be denied to the respondent nos 4 to 29 merely on the ground that they were not employees of the Air India. It was ordered that concessional rate for additional FSI should be charged to these respondents who were granted membership of the society to construct their flats in the additional FSI. It was further ordered that the order dated 4.2.l995 of the Additional Commissioner should be retained and these respondents should not be denied membership of the society on the ground that they are not employees of the Air India. Being aggrieved the petitioner society challenged the order dated 5.l0.2000 by filing Writ Petition No.23l3 of 2000. The writ petition was directed against that part of the order whereby it was directed that the petitioner society should not deny the membership to the respondent nos 4 to 29 merely on the ground

that they are not Air India employees. The learned single Judge (Kochar J.) by his order dated 6.7.200l dismissed the writ petition. Against the decision of the learned single Judge, present appeal being Appeal No. 750 of 200l is filed.

6. Writ Petition No.l663 of 2004 arises out of the dispute under section 9l of the MCS Act raised by the respondent nos.l to 59 to the writ petition being Case No. 394 of l993 where the enrollment of respondent nos 4 to 29 was challenged mainly on the ground that they were non Air India employees. By order passed by the Division Bench comprising of Palshikar and Mohite JJ. the Cooperative Court was directed to take up the dispute for adjudication as expeditiously as possible as in the opinion of the Bench it was necessary that the dispute is decided first and if the dispute results in granting membership to the respondents nos. 4 to 29 the Appeal itself will not survive. The 4th Coop Court vide its order dated 4.l2.2003 held that the non Air India employees i.e. the respondent nos 4 to 29 were eligible to be enrolled as members of the petitioner society. The Cooperative Court also rejected the contention of the petitioner society that the resolutions of the enrollment were forged

and fabricated .The petitioner society filed Appeal No 8 of 2004 against the order dated 4.l2.2003 and respondent nos.l to 59 filed Appeal No. 6 of 2004 being original disputants. The Coop Appellate Court passed a common order dated 7.5.2004 in both the appeals whereby it was held that the respondent nos 4 to 29 are entitled to exercise all membership rights except day to day management of the petitioner society. Being aggrieved by the said order present writ petition is filed.

8. Shri.Jahagirdar, learned counsel appearing for the petitioner society strenuously contended that as per the Government Resolution dated l2.5.l983 the housing societies formed by persons who are employees of public sector Corporation like Air India could have members belonging to any of the four income categories mentioned in the said Government Resolution, but persons who are not employees of public sector corporations cannot become members of a housing society formed exclusively of employees of public sector undertaking, in this case the Air India. The learned counsel urged that the land was allotted only to the permanent employees of the Air India and outsiders who were inducted as members of the

society as per the order of the Addl Commissioner have no right of membership as their enrolment is in clear violation of the directives issued by the State Government from time to time. The learned counsel relying upon the correspondence between the State Government and the petitioner society prior to the allotment of the land submitted that the allotment is only meant for the permanent employees of the Air India.He also referred to the minutes of meetings of the AGM dated 23.8.l994, l3.ll.l994 and 6.2.l994 which state that the society comprises of permanent employees of the Air India and no outsider is eligible to become member of the said society. The learned counsel submitted that the Minister of Revenue committed a serious error in entertaining the review application under section 258 of the MLR Code without there being any discovery of any new and important matter of evidence which was earlier not within the knowledge of the respondent nos. 4 to 29 nor there was any error apparent on the face of record in respect of the earlier order dated l7.7.l999 passed by his predecessor. He also submitted that the minutes of the meeting of the AGM of l9.7.l992 were fabricated and the then Chief Promoter Shri Das alongwith other members of the then managing committee

fabricated the records of the society for their personal gain. The Coop Court and Coop Appellate Court failed to appreciate this material on record in correct perspective and recorded an erroneous finding that the respondent nos 4 to 29 are validly enrolled as members of the petitioner society. Shri Kadam, learned counsel appearing for the respondent nos.l to 57 in the writ petition adopted the submissions of Shri Jahagirdar.

9. In reply, Shri.Bharucha, leaned counsel appearing for the respondent nos 4 to 29 submitted that section 23 of the MCS Act provides that no society shall without sufficient cause refuse admission to membership to any person duly qualified therefor under the provisions of the MCS Act and its byelaws. Section 22 of the MCS Act provides inter alia that any individual who is competent to contract under the Indian Contract Act, l872 can be admitted as a member of a society. There is no restriction in the bye laws of the society to the admission of members. Membership is not restricted to employees of the Air India and such restrictions in the byelaws, even if any, are contrary to the statute and cannot prevail and therefore the respondents cannot be barred from

membership .He submitted that the agreement dated 28.3.l989 does not restrict membership to the society . He pointed out that by order dated 7.4.l989 the land was allotted by the government to the petitioner society which was registered with open membership under the MCS Act . In any event, according to him the petitioner society is estopped from denying membership to the respondents since large amounts were collected from the respondents and were utilised for construction of building A,B and D. He submitted that the petitioner society having utilised the funds of the respondents in the construction of its buildings cannot now deny to the respondents the right of membership of the society. He submitted that there is concurrent finding of fact recorded by the Coop Court as well as Coop Appellate Court that the respondents are validly enrolled as members of the petitioner society and they are entitled to the allotment of flats. Shri Bharucha submitted that though respondents were originally allotted flats in buildings A and B the respondents have no objection if they are accommodated in building C now to be constructed. The respondents are also willing to pay for the additional FSI required and additional cost of construction for construction of building

C.

l0. Shri Rajendra Sawant, learned Additional State Government Pleader appearing for the State submitted that the Government has not stipulated any restrictions confining membership to the employees of the Air India. The letter of intent, agreement, final allotment letter did not contain any such restrictions. The only condition for enrolment of member is the approval of the Collector. Shri Sawant submitted that the Government Resolution dated l2.5.l983 does not in any manner restrict membership to the public sector undertakings. He also clarified that the additional FSI was released by the Government only with a view to accommodate the respondent nos.4 to 29 who were left high and dry by the petitioner society after accepting from them substantial amount.

ll. Since the controversy involved in the present case would to some extent turn upon the interpretation of the provisions of sections 22 and 23 of the MCS Act, the said provisions are extracted below :

"22. Person who may become member- (l) Subject to the provisions of section 24, no person shall be admitted as a member of a society except the following that is to say:

a) an individual, who is competent to contract under the Indian Contract Act, l872.

b) a firm, company or any other bod corporate constituted under any law for the time being in force, or a society registered under the Societies Act, l860.

c) a society registered, or deemed to be registered under this Act,

d) the State Government or the Central Government.

e) a local authority,

f) a public trust registered under any law for the time being in force for the registration of such trusts.

Provided that, the provisions of clause (a) shall not apply to an individual seeking admission to a society exclusively formed for the benefit of students of a school or college.

Provided further that,subject to such terms and conditions as may be laid down by the State Government by general or special order, a firm or company may be admitted as a member of a society which is a federal or urban society or which conducts or intends to conduct an industrial undertaking.

Provided also that, any firm or company, which is immediately before the commencement of this Act, a member of a society deemed to be registered under this Act, shall have, subject to the other provisions of this Act, the right to continue to be such member on and after such commencement".

Section 23 dealing with "open membership" in so far as it is relevant reads as under:

"23. Open membership- (l) No society shall, without sufficient cause, refuse admission to membership to any person duly qualified therefor under the provisions of this Act and its bye-laws.

(lA).....

(2).....

(3).....

(4)....."

l2. Section 23 of the MCS Act embodies one of the basic principles underlying the cooperative movement which is the principle of open membership. The marginal note to section 23 is entitled "open membership". The principle of open membership lies at the very foundation and the root of the cooperative movement. In Talmakiwadi Coop Housing Society Ltd Bombay vs Divisional Joint Registrar Societies, Bombay reported in l999(l) Mah L J 406, A.V Savant J., as he then was, upheld the decision of the Divisional Jt Registrar of Cooperative Societies to the effect that a bye law of a cooperative society which confines membership to person who belonged to the Kanara Saraswat Community was contrary to the provisions of

sections 22 and 23 of the MCS Act . In Zoroastrian Radih Society vs. Mrs Pervin Nariman Gogina and anr , (200l) (3) Mah L J 450,H.R Gokhale J., held that the statutory provisions of the Maharashtra Ownership Act l963 and the MCS Act are binding on the society concerned and any byelaw or restriction to the contrary would be hit by those provisions. In St Anthony's Coop Society Ltd vs. Secretary Cooperation & Textile Department Mumbai, 2000 (4) Mah L J 642,D.Y.Chandrachud J., held that byelaw of a cooperative society imposing a condition or qualification restricting membership to a particular religious group would violate the principle of open membership and is not consistent with the provisions of sections 22 and 23 of the MCS Act. To the same effect is the judgment of the division bench of the Gujarat High Court in Zoroastrian Coop housing Society Ltd vs District Registrar of Coop Societies (Urban) reported in AIR l997 Gujarat l36 and the judgment of the Madhya Pradesh High Court in The Maharashtra Brahman Sahakari Bank Ltd Indore vs State of Madhya Pradesh reported in AIR l980 MP 84.

l3. It is a common ground that the petitioner society was registered as a society with open

membership. The byelaws of the society did not restrict the membership to the employees of the Air India but there was an open membership to any individual who was competent to contract. The said bye laws were however, amended first time to restrict the membership to the employees of Air India with a view to obtain collective loan from the Air India. This amendment was dated 30.5.l989 in the bye law registered on 24.2.l989. It appears that since the society did not succeed in getting the loan from the Air India, in a subsequent amendment to the byelaws the restrictions on the membership were removed and it was left open to all persons. This later amendment was approved by the Dy Registrar on 30.7.l992. Thus the restriction on the membership continued at best only for the period from 30.5.l989 to l9.7.l992 and for the other span of the period the membership was open. Even the agreement dated 28.3.l989 with the Collector did not contain such restriction on the membership and it was agreed that the land would be used for residential purpose of the members of the society i.e. open members. It is pertinent to note that the land was allotted on 7.4.l989 by the government when the society was registered with open membership under the registered bye laws. It

appears that in the year l99l pursuant to the new development control rules coming into force, the additional FSI of 3l23 sq mtrs became available to the society and hence it could consider additional third building with 27 flats by utilizing the additional FSI in addition to buildings A and B . The respondents were admitted as members in the annual general meeting of the society held on l9.7.l992 subject to approval of the Collector and subject to release of the additional FSI. It is not disputed before us that the respondents have paid a sum of Rs.49 lacs and some of them had paid full cost of the flats. In our opinion, it is not permissible for the petitioner society now to deny the membership to the respondents, particularly when the State Government released additional FSI for the purpose of accommodating the respondent nos. 4 to 29.

l4. Our attention was drawn to the judgment of M.L. Pendse J. in the case of Smt Sheela vs State of Maharashtra, l983(2) BCR 242 where in similar circumstances the decision of the Government to deny membership to non-governmental employees was quashed and set aside. In that case l8 officers in the Revenue and Forest Department made a proposal

to the Secretary of the Revenue and Forest Department for an allotment of a government plot for a proposed cooperative housing society. The Government of Maharashtra passed a resolution allotting the plot of land . A list of members was appended. The names were to be approved by the Government.Twenty members were enrolled as there were 2- buildings to be constructed. The construction could not proceed as the members were unable to secure the loan promised by the Government, as a result, some of the members left the society. In l975 some of the non -governmental employees learnt that membership in the society was available and applied for flats in the society. The Secretary of the society accepted the applications of the non-governmental employees and enrolled them as members, subject to the approval of the Government. The petitioners therein contributed substantial amounts towards the construction, which was completed in l98l.The Government, however, refused memberships to the petitioners therein on the ground that they were non government employees, inspite of them having contributed almost entire cost of construction. It was held by this court as follows:

"It is undoubtedly true that the Government approval is required for enrollment of additional members, but as the Memorandum did not set out the terms or conditions on which the approval has to be granted or withheld, the Government is not entitled to withhold the approval for the reason which is totally extraneous to the object of formation of the society. The object of grant of Government land was to form a co-operative housing society and provide for accommodation to people who were without any shelter.. the reason that the proposed member is not an employee working in the Revenue and Forest Department of the Government is totally foreign to the object in forming the Society and respondent nos. 1 and 2 were clearly acting refusal to grant approval to the Petitioners solely on the ground that they are not employees of the Government cannot be sustained."

l5. In the present case even in the agreement between the Government and the society membership

is not restricted to the employees of the Air India. In the circumstances it is not open to the society to contend that the non Air India employees cannot become members of the society. The argument of Shri Jahagirdar that there was no ground for the Revenue Minister to review the earlier order under section 258 of the Land Revenue Code is also without any merit. The earlier Revenue Minister had not properly considered the decision of this court in l983(2) BCR 242 and had not appreciated the principles of open membership. The letter of intent, agreement eligibility criteria for membership etc were also not considered and there was complete misdirection in that regard. Bye law of the society did not restrict on the relevant date membership to Air India employees only. Considering the totality of the circumstances and interest of justice and equity the decision of the Revenue Minister (Nimbalkar) is just and fair and need not be interfered with.

l6. Reliance placed by Mr.Jahagirdar on the Government Resolution dated l2.5.l983 is equally misconceived. The said Government Resolution provides allotment of land at a concessional rate under Rule 27 of the Maharashtra Land Revenue

(Disposal of Government Lands) Rules, l97l read with section 40 of the Maharashtra Land Revenue Code based on family income which included husband and wife. The resolution granted concession to employees of income below Rs.3000 and this criteria is based on the family income and not income of the employee of the public sector undertaking as contended by Mr. Jahagirdar. Mr. Sawant has clarified that there is nothing in the said Government Resolution which prevents respondent nos 4 to 29 from being members of the petitioner society. Mr. Sawant also submitted that even after the grant is given the State has right to modify the terms and conditions to meet the ends of justice. According to him Government has power to add to, amend or vary the grant and Government has rightly directed the petitioner society to accommodate the respondent nos 4 to 29 in the land allotted to the petitioner society by constructing flats on the basis of additional FSI released by the State Government for that purpose. We may also add that several instances were also cited before us showing that government policy does not restrict membership to a class to which promoters belong. In the circumstances it is impossible to accept the submission of Mr.Jahagirdar that membership of the

petitioner society was restricted to the employees of Air India Employees only.

l7. We have also carefully gone through the entire records with the assistance of the learned counsel appearing for the parties. In our opinion the concurrent findings of fact recorded by the Cooperative Court and Cooperative Appellate Court do not warrant any interference. Both the courts have negatived the case of the petitioner society that minutes were forged and fabricated and recorded a categorical finding that the outsiders joined the petitioner society on the basis of representation made by its office bearers and the moneys paid by them were used for construction of the society's buildings. The respondents have been made to suffer since l992 and have been dragged through innumerable proceedings inspite of agreeing to pay the cost of additional FSI and the cost of construction. It is also pertinent to note that before the Minister for Revenue Shri Vilasrao Deshmukh a statement was made on behalf of the petitioner society which was recorded by the Minister in his order dated l0.3.l995 that the 29 appellants (respondent nos 4 to 29) are taken in

the society against the additional FSI and when Government release additional FSI then only these 29 appellants can be accommodated. The society had also made a solemn statement through its counsel before the Division Bench of this court that in the event there is an increase in the FSI the present respondents can be accommodated in the third building that may be constructed and therefore the respondent nos 4 to 29 need not be accommodated in the buildings A and B which are under construction. It is clear that the society having taken the benefit of the additional FSI on the pretext of accommodating respondent nos. 4 to 29 is now backing out of the said statement made by the society.

l8. In the circumstances, we do not find any merit in the case of the petitioner society that the respondent nos. 4 to 29 are not entitled to membership of the petitioner society, and the Appeals and writ petition are liable to be dismissed.

l9. At the time of admitting the petition the learned single Judge vide order dt l4.l2.2000 directed the petitioner society to deposit in this

court Rs.48 lacs which is lying deposit in this court. Thereafter vide order dated l8.l0.200l the Division Bench in a notice of motion in the above Appeal No.750 of 200l ordered the petitioner society to deposit a further amount of Rs.36 lacs by way of interest and shortfall which was deposited. This amount along with the accrued interest be transferred to the society's account to be utilised for the construction of building "C". It is needless to state that the entire cost of the construction of building C and the cost of additional FSI shall be borne out by respondent nos.4 to 29.

20. In the result both appeals and writ petition stand dismissed with costs.

. Mr. Nalawade, at this stage applies for stay of this order. Application is rejected.